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The Yuchi probably claimed an exclusive right to hunt in their ancient territories on the Savannah and Ogechee.

Spoils taken in war were the property of the captor. Rights to land on the part of tribes and towns seem to have been based on original occupancy, hunting, and conquest in wars with other tribes.[19] It is probable that if we could investigate the Creek confederacy as it existed in the seventeenth and eighteenth centuries we should find that, in spite of a freedom to hunt broadly exercised, certain towns and clans claimed prior rights over parts of the common territory outside of their contiguous town limits, so easily does the idea of ownership become associated with that of use.[20] Coweta in particular seems to have put forth extensive claims to ownership of territory in the eastern part of the Creek area, and early in the nineteenth century even professed a right to dispose of the lands of the entire nation. This was, however, a political move fathered by the State of Georgia and that half-breed element which was acting in its interest.

In general we may say of the ancient Creeks that use and ownership among them were pretty closely united while the clan system and accompanying feeling of solidarity and sense of the duty of hospitality diffused prosperity to such an extent that well being was pretty widely extended and contrasts between wealth and poverty comparatively slight.

Finally I can not refrain from quoting the following passage from Hawkins, which shows clearly the economic bases of the difficulties between the whites and the larger tribes of Indians in the Southeast:

"Notwithstanding, I rely for the present on the assurance I have received [from the Indians], I must inform you that the game has become scarce; the wants of the Indians are increasing, the men too proud to labour; the distemper has destroyed their horses; the presents heretofore given by Great Britain, in quantities sufficient to cloathe all the idlers, has ceased; those given by Spain are mere baubles. The men, bred in habits proudly indolent and insolent, accustomed to be courted, and to think that they did a favour by receiving, where naked, cloathes and comforts from the British agents, will reluctantly and with difficulty, be humbled to the level of rational life."[21]

Crime and Punishment

The word haksi was used by Chickasaw of Adair's time "to convey the idea of a person's being a criminal in any thing whatsoever," and "such unfortunate persons as are mad, deaf, dumb, or blind, are called by no other name."[22] The original meaning of this word is

[19] Schoolcraft, Ind. Tribes, vol. I, p. 282.

[20] Eakins denies, however, that families had exclusive rights to any hunting grounds. This was after the removal west.

[21] Hawkins, Letters, in Ga. Hist. Soc. Colls., vol. IX, p. 240; cf. also p. 209.

[22] Adair, Hist. Am. Inds., p. 157, footnote.

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"deaf," but it has come to signify "drunken," "roguish," "wicked," "sinful," etc.

Institutional killing will be treated under its proper head. It was based on the principle of retaliation, or, as more popularly expressed, "getting even," and was considered necessary in order to placate the souls of the departed. I have already remarked that the victim was sometimes devoted to death in advance, and Bartram mentions a case in which he was selected by lot. The following quotation from Adair shows what happened when murder was committed within the tribe, as well as the Indian attitude toward man killing generally:

"The Indians transmit from father to son, the memory of the loss of their relation, or of one of their own tribe or family, though it were an old woman if she was either killed by the enemy, or by any of their own people. If indeed the murder be committed by a kinsman, the eldest can redeem: however, if the circumstances attending the facts be peculiar and shocking to nature, the murderer is condemned to die the death of a sinner, 'without anyone to mourn for him,' as in the case of suicide; contrary to their usage toward the rest of their dead.

"In the late Cheerake War, at the earnest persuasions of the trading people, several of the Muskohge warriors came down to the barrier-settlements of Georgia, to go against the Cheerake, and revenge English crying blood: but the main body of the nation sent a running embassy to the merchants there, requesting them immediately to forbear their unfriendly proceedings, otherwise, they should be forced by disagreeable necessity to revenge their relations' blood if it should chance to be spilt contrary to their ancient laws: . . . If an unruly horse belonging to a white man, should chance to be tied at a trading house and kill one of the Indians, either the owner of the house, or the person who tied the beast there, is responsible for it, by their lex talionis; . . . If the Indians have a dislike to a person, who by any casualty was the death of one of their people, he stands accountable, and will certainly suffer for it, unless he takes sanctuary.

"I knew an under trader, who being intrusted by his employer with a cargo of goods for the country of the Muskohge, was forced by the common law of good faith, to oppose some of those savages in the remote woods, to prevent their robbing the camp: the chieftain being much intoxicated with spirituous liquors, and becoming outrageous in proportion to the resistance he met with, the trader like a brave man, opposed lawless force by force: some time after, the lawless bacchanal was attacked with a pleurisy, of which he died. Then the heads of the family of the deceased convened the lesser judicatory, and condemned the trader to be shot to death for the supposed murder of their kinsman; which they easily effected, as he was off his guard, and knew nothing of their murdering design.